

REMARKS

Applicant's representative extends his thanks to the Examiner for explaining the restriction requirements set forth in the Office Action mailed September 22, 2003 in a telephone conversation on February 13, 2004, in which the bases for the restriction requirements were discussed. Applicant's representative also thanks the Examiner for pointing out that certain of the claims depend from a claim 0 rather than from claim 1. The amendment to claims 2, 3, 4, 5, and 21 above should address the incorrect claim dependencies.

Applicant also wishes to bring to the Examiner's attention various of Applicant's copending patent applications. In particular, Applicant wishes to bring to the Examiner's attention copending application serial number 10/051,976 filed January 16, 2002. A copy of the non-final and final Office Actions for this application are enclosed for the Examiner's consideration.

With respect to the first election of species requirement, Applicant hereby provisionally elects claims specifying a polyaromatic resin for continued examination with traverse. The basis for traversing the restriction requirement includes MPEP 806.04(f). In order to make an election of species requirement, MPEP 806.04(f) sets forth that the species subject to the election of species must be mutually exclusive. Applicant's representative believes that this situation is not present in the existing claims. The claims do not explicitly recite mutually exclusive subject matter, since claim 1 claims subject matter that is generic to the subject matter of claim 5.

As Applicant's representative understands from the conversation of February 13, 2004, the Examiner's basis for election of a specie for prosecution is that:

(1) claim 1 includes a claimed method wherein the resin may be a polyaromatic resin and wherein the resin may be a non-polyaromatic resin because claim 1 is generic; and

(2) since claim 1 could be divided into two mutually exclusive species, the restriction requirement requiring Applicant to in essence restrict examination at this time to a method involving a polyaromatic resin was proper in order to avoid an undue burden in searching.

Applicant's representative does not believe it is proper to require election of a specie for examination where only one specie is explicitly recited in the claims. There would be no need to have MPEP 806.04(f) if this was the case, because any dependent claim could automatically be used to divide the generic claim from which it depends into multiple species. In essence, the basis for election of species as asserted by the Examiner would lead to the conclusion that any dependent claim could be used as a basis for requiring an election of a specie, which could result in essentially piece-meal prosecution.

Further, Applicant's representative asserts that there is no undue burden in searching for art pertinent to a method utilizing a non-polyaromatic resin in addition to art pertinent to a method utilizing a polyaromatic resin. Applicant's representative is unaware of separate art classifications that must be searched or an inordinate body of art that would need to be reviewed based on the polyaromaticity of the resin used in the claimed method. Consequently, Applicant's representative asserts that there is no undue burden in searching the subject matter of generic claim 1 rather than the subject matter of dependent claim 5.

With respect to the second election of species requirement, Applicant hereby provisionally elects subject matter drawn to a 4'-primary amino-substituted psoralen with traverse. Again, Applicant's representative is unaware of separate art classifications that must be searched or an inordinate body of art that would need to be reviewed based on a method as claimed utilizing a 4'-primary amino-substituted psoralen and a 5'-primary amino-substituted psoralen. Consequently, Applicant's representative asserts that there is no undue burden in searching the subject matter of claim 6 without election of species.

Applicant understands that should the Examiner maintain one or more of the election of species requirements, the nonelected species will be examined in the event that the elected species and generic claims are found allowable.

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Respectfully submitted,

By 

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